

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1653.00</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Sandie Scudder</b>
<b>DATE OF COMPLAINT:</b>	<b>November 9, 2000</b>
<b>DATE OF REPORT:</b>	<b>December 8, 2000</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>yes (no revisions to the original report)</b>
<b>DATE OF CLOSURE:</b>	<b>January 8, 2001</b>

**COMPLAINT ISSUES:**

Whether the Indianapolis Public Schools violated:

- 511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written.
- 511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure that the student's teacher of record regularly monitored the implementation of the student's IEP.

**FINDINGS OF FACT:**

1. The student (the "Student") is 14 years old and is eligible for special education services as a student with a traumatic brain injury. He had been receiving special education and related services.
2. The Student was arrested on October 5, 2000, and placed at the local Juvenile Detention Center. The student has been detained in the classification unit since early October due to his behavior.
3. The Student has not received any special education services from the school since his arrest and detention on October 5, 2000. The Detention Center's policy is that students do not participate in public school programs until moving from the classification unit to the general housing unit. Public school staff are not permitted to provide educational services to students detained on the classification unit.
4. The School and the Complainant convened the case conference on November 15, 2000, to address the issue of services. The Complainant requested additional evaluations.
5. The Director of Special Education agreed to coordinate this evaluation once the court gave its approval and the Complainant specified the types of testing wanted. The Complainant has not provided this information.
6. The School will provide services to the Student if the Student is transferred to the general housing unit.
7. The Student's teacher of record ("TOR") will continue to consult with the educational staff at the Detention Center while the Student is detained .

**CONCLUSIONS:**

1. Findings of Fact #1, #2, and #3 indicate that the Student received special education services prior to his

detention in the local juvenile detention facility. Findings of Fact #3 and #6 reflect that, although the School is willing to provide special education services to the Student during his period of detention, the facility's policy precludes services by the School while the Student is detained in the classification unit. Although the School is willing to implement the Student's IEP, the Student's status at the detention facility precludes the School's ability to actually provide services. Therefore, no violation of 511 IAC 7-27-7(a) is found.

2. Findings of Fact #2 through #7 indicate that the School is willing to implement the Student's IEP and a TOR has been assigned to monitor the implementation of the IEP. However, because the School is precluded from implementing the Student's IEP in the detention facility, the TOR can do nothing more than consult with the detention facility, pending the student's move out of the classification unit. Therefore, no violation of 511 IAC 7-27-7(b) or 511 IAC 7-17-72 is found.

**DISCUSSION:**

In this situation, the School was precluded from providing special education and related services to a student detained in the local juvenile detention facility. However, Indiana Code §20-8.1-3-36(a) requires that the juvenile detention center ensure that a child within its authority attend school as required by Indiana law. It is the detention center's responsibility to ensure that the student has access to educational services. When the detention center's policy precludes the public school from providing educational services to students in certain units of the center, the center must have an alternative for providing those services. Compliance with compulsory attendance requirements is within the state attendance officer's authority. Therefore, a copy of this complaint will be provided to the state attendance officer.

**The Department of Education, Division of Special Education requires no corrective action based on the Findings of Fact and Conclusions listed above.**